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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,942	01/28/2005	Heiko Schutz	BM-163PCT	8398
40570	7590	09/08/2006	EXAMINER	
FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			MERLINO, ALYSON M	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/522,942	Applicant(s) SCHUTZ ET AL.	
	Examiner Alyson M. Merlino	Art Unit 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the flat profile piece 37 is discussed in the specification in correlation with Figure 5, but the flat profile piece is not pointed out on the drawing. For clarification purposes, the examiner suggests that reference character 37 be added to Figure 5 to show how the flat profile piece corresponds to other pieces in the device. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

1. The disclosure is objected to because of the following informalities: subject matter errors and reference character errors.
  - a. On page 1, line 1, and on page 5, lines 16 and 17, the inclusion of a reference to a claim is improper subject matter for the specification.
  - b. Page 11, line 9, the reference to the "lock cylinder 20" should be "lock cylinder 40."
  - c. Page 12, lines 7 and 8, the reference to the "housing 31" should be "housing 30."
  - d. Page 14, line 3, the reference to the "driver 60" should be "driver 16."
  - e. Page 19, description for reference character 38, the description should read "restoring spring for 35 (Figure 3)" not "restoring spring for 45 (Figure 3)."

Appropriate correction is required.

***Claim Objections***

2. **Claims 1, 2, 6-11, 17, 20, and 23 are objected** to because of the following informalities: grammatical errors, indefinite phrasing, inconsistent terminology, and other errors.
3. Regarding claims 1, 8, and 9, the terminology used to describe each part of the claimed device, such as the closed position (20.1) on page 3, line 8 of claim 1 should be used throughout the claims. Specifically in claim 1, on page 3, lines 4 and 5, the closed position (20.1) is referred to as the coupling position (20.1). The examiner understands that the combination (20) is coupled when in the closed position (20.1), but feels that

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consistent terminology should be used when referring to a particular position or part of the claimed device. This also applies to the inconsistent terminology in claims 8 and 9, i.e. the stationary opposing joint element (35), as opposed to the previously claimed terminology the stationary opposing element (35) in claim 1.

4. Regarding the grammatical errors in claim 1, specifically, on page 2, line 8, the word "and" should be placed in between the words "situation" and "rotates", and line 9 should read "the lock cylinder (40), moving the lock between an unlocking," not as it is currently written. On page 3, within line 16, the beginning of the phrase should read "in which the opposing element (35)," for correction of grammatical errors and the inclusion of a reference character for clarification.

5. Regarding indefinite phrasing in claim 1, the mention of a combination (20) in line 3 on page 3 is confusing, and should be clarified since it is well known in the art that a combination refers to a combination lock. The examiner is unsure of the structure of the combination (20), and suggests that an appropriate correction be made to clarify its purpose and components. Further on page 3, line 13, the phrase "this rotating coupler" should be changed to "the rotating coupler (45)," and in line 19, the phrase "this element (45)" should read "the coupler element (45)" for clarification.

6. Regarding claims 2 and 10, the reference to the handle (21, 22) is not consistent with the handle (21) reference in claim 1, and needs to be clarified to include the parts of the device that are associated with the handle.

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7. Regarding grammatical errors in claims 8, 11, 20, and 23, the phrase beginning with the word "which" followed by the name of a part in the device should be changed to read as "in which the" followed by the name of the part being described.

8. Regarding claim 17, the phrase "there is a certain gap (58) between their facing ends; and in that the lock cylinder (40) is accommodated in this gap (58)" should read, "there is a certain gap (58) between their facing ends, in which the lock cylinder (40) is accommodated."

9. Regarding claim 23, reference character 25 should be omitted since the pivoting axis (25) is not referenced in the claim.

Appropriate correction is required.

10. **Claim 13** is written in improper dependent form, claiming dependency on a subsequent claim. The examiner assumes that the claim was meant to be dependent upon claim 11, therefore, it will be examined in this manner until further clarification.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. **Claims 1-23 are rejected** under 35 U.S.C. 112, second paragraph.

13. Claims 1, 3, 4, 6, 8, and 11-14 are rejected as having insufficient antecedent bases for limitations within the claims.

a. Claim 1 recites the limitations "the rear surface (26)" in line 2 on page 3, "toward the interior (32)" in line 6 on page 3, and "the coupling movement (25)" in the first line on page 4.

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- b. Claim 3 recites the limitation "the axis (44)" in line 2.
  - c. Claim 4 recites the limitation "the cylinder housing (42)" in line 2.
  - d. Claim 6 recites the limitation "the bearing means (12, 13, 57)" in lines 4 and 5.
  - e. Claim 8 recites the limitation "the rear surface (26)" in line 3 on page 5 and "the coupling point (37)" in lines 4 and 5 on page 6.
  - f. Claim 11 recites the limitation "the opening (31)" in line 3 on page 7 and "the housing wall (33)" in lines 9 and 10 on page 7.
  - g. Claim 12 recites the limitation "the outward pivot angle (19)" in line 6 on page 7.
  - h. Claim 13 recites the limitation "the thread (48)" in line 4.
  - i. Claim 14 recites the limitation "the riser (49)" in line 2.
14. Regarding claims 5 and 20, the phrases "and/or" and "such as" render the claims indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2173.05(d).

***Allowable Subject Matter***

15. Claims 1-23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571)

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272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

am *AM*



**BRIAN E. GLESSNER**  
**SUPERVISORY PATENT EXAMINER**